



**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

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**DIVISION OF ENFORCEMENT**

September 4, 2019

VIA ECF

Honorable Denise L. Cote  
United States District Court  
500 Pearl Street  
New York, NY 10007

**Re: SEC v. Lek Securities Corp. et al., Case No. 17 CV 1789 (DLC)**

Dear Judge Cote:

We write in response to the letter submitted by defendants Avalon FA Ltd, Nathan Fayer and Serge Pustelnik ("Avalon Defendants") dated September 4, 2019 (ECF No. 401) requesting leave to file a 50-page pre-trial memorandum of law.

The SEC opposes that request for two reasons. First, an oversized brief is unnecessary. The Avalon Defendants argue that they have not yet addressed "some of the issues" in this case. But the Avalon Defendants have had ample opportunity to raise legal issues for the Court's consideration (for example, by filing a motion to dismiss or a motion for summary judgment, which they chose not to do). The fact that the Avalon Defendants chose not to timely file any dispositive motions does not merit the filing of a 50-page trial brief addressing legal issues that the Court has already thoroughly addressed.

Second, an oversized brief is not necessary to guide the Court. As this Court recognized during the June 10, 2019 conference, "[y]ou don't have to file a trial memorandum, and I've written a few opinions in this case, so I'm not sure you need to file one to educate the court, but it is always appreciated."<sup>1</sup> Jun. 10, 2019 Transcript, at 10. The Avalon Defendants argue that they wish to raise "issues that are unique" and "have never been addressed," but they fail to explain

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<sup>1</sup> Indeed, given the extensive briefing that has already occurred in this case on the legal issues and market manipulation concepts at issue, and given the Court's multiple opinions thoroughly addressing those issues and concepts, the SEC has not yet determined whether it will file a pretrial memorandum.

why those new or unique issues cannot be adequately addressed in a standard 25-page memorandum. Particularly in a jury case, there is no need to try the whole case in a pre-trial memorandum.

If the Avalon Defendants really do raise heretofore unknown issues “that have never been addressed by any party,” the SEC respectfully requests that it be allowed to file a reply responding to such new issues, in a memorandum of equal length.

Respectfully submitted,

/s/ David J. Gottesman  
Deputy Chief Litigation Counsel  
Division of Enforcement

cc (via ECF): All counsel of record